

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 11
)	
VIRGINIA-HIGHLAND RESTAURANT,)	Jointly Administered Under
LLC and RESTAURANT 104 LLC,)	CASE NO. 20-70718-bem
)	
Debtors.)	

MOTION FOR EXTENSION OF AUTHORITY TO USE CASH COLLATERAL

COME NOW Virginia Highland Restaurant, LLC (“**VH Restaurant**”) and Restaurant 104 LLC (“**Restaurant 104**”) (collectively, the “**Debtors**”), debtors and debtors-in-possession in the above-styled jointly administered Chapter 11 case (the “**Case**”), pursuant to 11 U.S.C. § 363 and Bankruptcy Rule 4001, and file this Motion for Extension of Authority to Use Cash Collateral (the “**Motion**”) seeking entry of an order substantially in the form of Exhibit 1 attached hereto (the “**Proposed Order**”) authorizing further use of cash collateral. In support of the Motion, the Debtors show the Court as follows.

Background

1.

On October 13, 2020, (the “**Petition Date**”), the Debtors each filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to operate their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner, and no committee has been appointed in this Case.

2.

On October 16, 2020, the Debtors filed their Motion for Authority to Use Cash Collateral and Request for Emergency Hearing (the “**Cash Collateral Motion**”) [Dkt. No. 10] (a)

requesting authority to use Cash Collateral (as defined below) pursuant to Section 363 of the Bankruptcy Code and (b) seeking authorization to provide adequate protection to Gordon Food Service, Inc. (“**Gordon**”) and the U.S. Department of the Treasury - Internal Revenue Service (the “**IRS**”) as secured creditors (collectively, the “**Secured Parties**”).

3.

On October 26, 2020, the Court entered an Interim Order Granting Motion for Authority to Use Cash Collateral [Dkt. No. 27].

4.

On November 24, 2020, the Court entered a Final Order Granting Motion for Authority to Use Cash Collateral [Dkt. No. 44] (the “**Final Cash Collateral Order**”)¹.

Relief Sought

5.

Pursuant to paragraph 1 of the Final Cash Collateral Order, the Usage Period during which the Debtors are authorized to use cash collateral terminates on March 23, 2021. The Debtors seek an extension of the Usage Period through and including July 13, 2021 (the “**Extended Usage Period**”).

6.

The Debtors are in the process of formulating a plan of reorganization which they expect to file on or before the April 9, 2021 deadline. The Debtors will require the use of cash collateral to operate their business through the effective date of any confirmed Chapter 11 plan; therefore, cause exists to grant the requested extension through the Extended Usage Period.

¹ Capitalized terms used herein but not defined shall have the meaning ascribed to such term in the Final Cash Collateral Order.

7.

The Debtors propose that the following language will replace and supersede paragraph 1 of the Final Cash Collateral Order:

Usage Period. Subject to the terms and conditions contained herein, the Debtors are authorized to use Cash Collateral through the earlier of (i) July 13, 2021 or (ii) the date the Debtors' right to use Cash Collateral terminates in accordance with paragraph 10 below (the "**Termination Date**").

8.

Additionally, the Debtors propose that the Budget attached as Exhibit A to the Proposed Order shall replace and supersede the Budget attached to the Final Cash Collateral Order.

WHEREFORE, the Debtors request that this Court: (a) enter the Proposed Order extending the cash collateral Usage Period through and including July 13, 2021 and approving a further Budget; and (c) grant the Debtors such other and further relief as is just and proper.

This 3rd day of March, 2021.

Respectfully submitted,

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Counsel for the Debtors

EXHIBIT 1

PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	CHAPTER 11
)	
VIRGINIA-HIGHLAND RESTAURANT, LLC and RESTAURANT 104 LLC,)	Jointly Administered Under CASE NO. 20-70718-bem
)	
Debtors.)	

**ORDER GRANTING DEBTORS' MOTION FOR
EXTENSION OF AUTHORITY TO USE CASH COLLATERAL**

THIS MATTER came before the Court at a hearing at [__] a.m. on March [__], 2021 (the “**Hearing**”) to consider the *Motion for Extension of Authority to Use Cash Collateral* [Dkt. No. ___] (the “**Motion**”)¹ filed by Virginia-Highland Restaurant, LLC and Restaurant 104 LLC, (the “**Debtors**”), debtors and debtors-in-possession in the above-styled jointly administered Chapter 11 case (the “**Case**”) and any objections thereto. No objections to the Motion were filed or asserted at the Hearing.

It appearing that the Court has jurisdiction over this proceeding; this is a core proceeding;

¹ Capitalized terms used herein but not defined shall have the meaning ascribed to such term in the Motion.

notice of the Motion has been properly given; no further notice is necessary; the relief afforded by this Order is in the best interests of the Debtors, their estates, and their creditors; and good and sufficient cause exists for such relief,

It is hereby ORDERED as follows:

1. The Motion is GRANTED, as set forth herein.
2. Paragraph 1 of the Final Cash Collateral Order shall be replaced and superseded by the following:

Usage Period. Subject to the terms and conditions contained herein, the Debtors are authorized to use Cash Collateral through the earlier of (i) July 13, 2021 or (ii) the date the Debtors' right to use Cash Collateral terminates in accordance with paragraph 10 below (the "**Termination Date**").

3. The Budget attached hereto as Exhibit A shall replace and supersede the Budget attached to the Final Cash Collateral Order.
4. The Final Cash Collateral Order, as modified by this Order, shall remain in full force and effect.
5. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

[END OF ORDER]

Prepared and presented by:

SCROGGINS & WILLIAMSON, P.C.

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EXHIBIT A

BUDGET

**HG Sandy Springs
Four Month Budget**

GL Acct No	Description	Released					
		Per 4 03/24/21	Per 5 04/21/21	Per 6 05/19/21	Per 7 06/16/21	Total	Percent
		04/20/21	05/18/21	06/15/21	07/13/21		
Sales							
41100	Food	107,962	102,434	102,411	102,884	415,691	61.60%
43100	Liquor	29,444	27,937	27,930	28,059	113,370	16.80%
44200	Beer (Bottled)	4,031	3,825	3,824	3,841	15,521	2.30%
44300	Beer (Draft)	27,867	26,440	26,434	26,556	107,297	15.90%
45100	Wine	5,784	5,488	5,486	5,512	22,269	3.30%
46100	Merchandise	175	166	166	167	675	0.10%
	Gross Sales	175,263	166,289	166,252	167,019	674,824	100.00%
		25.8550%	24.5570%	24.5911%	24.9968%	100.0000%	
Discounts / Returns / Allowances							
48000	Comps / Promos	5,280	5,280	5,280	5,280	21,120	3.13%
48180	Sales Promos Disc and Adj.	-	-	-	-	-	0.00%
	Total Promos and Allowances	5,280	5,280	5,280	5,280	21,120	3.13%
	Net Sales	169,983	161,009	160,972	161,739	653,704	96.87%
Cost of Sales							
COS - Food							
51200	Purchases	33,468	31,755	31,748	31,894	128,864	31.00%
	Total Food Cost	33,468	31,755	31,748	31,894	128,864	31.00%
COS - Liquor							
53200	Purchases	5,594	5,308	5,307	5,331	21,540	19.00%
	Total Liquor Cost	5,594	5,308	5,307	5,331	21,540	19.00%
COS - Beer (Draft & Other)							
54600	Purchases	6,967	6,610	6,609	6,639	26,824	25.00%
	Total Draft Beer Cost	6,967	6,610	6,609	6,639	26,824	25.00%
COS - Beer (Bottled)							
54200	Purchases	1,008	956	956	960	3,880	25.00%
	Total Bottled Beer Cost	1,008	956	956	960	3,880	25.00%
COS - Wine							
55200	Purchases	1,446	1,372	1,372	1,378	5,567	25.00%
	Total Wine Cost	1,446	1,372	1,372	1,378	5,567	25.00%
56200	Purchases	175	166	166	167	675	100.00%
	Total Merchandise Cost	175	166	166	167	675	100.00%
57200	COS - Paper & Packaging Products	3,505	3,326	3,325	3,340	13,496	2.00%
	Total Cost of Sales	52,164	49,493	49,482	49,710	200,848	29.76%
	Gross Profit	117,820	111,516	111,491	112,029	452,856	67.11%
Cost of Personnel							
Management							
61200	Wages - Management	14,200	14,200	14,200	14,200	56,800	
62450	Wages - Key Employee	720	720	720	720	2,880	

**HG Sandy Springs
Four Month Budget**

GL Acct No	Description	Released				Total	Percent
		Per 4 03/24/21	Per 5 04/21/21	Per 6 05/19/21	Per 7 06/16/21		
61250	FOH Wage	7,011	6,652	6,650	6,681	26,993	
61350	BOH Wages	15,774	14,966	14,963	15,032	60,734	
63725	Payroll Processing Expense	550	550	550	550	2,200	
63100	Payroll Taxes	3,770	3,654	3,653	3,663	14,741	
63515	Kitchen Meals	-	-	-	-	-	
Total Labor		42,024.62	40,741.29	40,736.10	40,845.78	164,348	
Operating/Credit Card Processing Expense							
71550	Smallwares/Kitchen Supplies	200.00	200.00	200.00	200.00	800	
71200	Cleaning Supplies	1,580	1,580	1,580	1,580	6,320	
75165	Merchant Fees	1,540	1,540	1,540	1,540	6,160	
Total		3,320	3,320	3,320	3,320	13,280	
Utilities							
74200	Power & Electric	5,222	5,222	5,222	5,222	20,889	
74300	Natural Gas	1,520	1,520	1,520	1,520	6,082	
74800	Water	1,219	1,219	1,219	1,219	4,876	
74850	Alarm Service	626	626	626	626	2,502	
74700	Trash Disposal Expense	433	433	433	433	1,732	
75460	Telephone	600	600	600	600	2,400	
75465	Cable/Satellite TV	1,400	1,400	1,400	1,400	5,600	
72600	Pest Control	290	290	290	290	1,160	
Total Utilities		11,310	11,310	11,310	11,310	45,241	
Property/Insurance Expense							
81100	Building Rent	17,436.00	17,436.00	17,436.00	17,436.00	69,744	
81500	CAM - Common Area Maintenance	1,648.00	1,648.00	1,648.00	1,648.00	6,592	
81600	Insurance - Leased Real Estate	324.00	324.00	324.00	324.00	1,296	
81650	Real Estate Taxes - Leased Property	2,004.00	2,004.00	2,004.00	2,004.00	8,016	
75260	General Liability & Property	904.00	904.00	904.00	904.00	3,616	
Total Property/Insurance Expense		22,316.00	22,316.00	22,316.00	22,316.00	89,264	
Other Expense							
91100	Operating Support Fee	7,200.00	7,200.00	7,200.00	7,200.00	28,800	
23105	Sales Tax	11,838.66	11,078.01	10,842.39	9,166.64	42,926	0.0775
23205	Tax By the Drink	796.51	747.04	731.72	622.74	2,898	0.03
XXXX	Debtor Professionals	8,000.00	8,000.00	8,000.00	8,000.00	32,000	
XXXX	US Trustee Quarterly Fees	5,850.00	-	-	5,850.00	11,700	
Total Other Expense		33,685.17	27,025.05	26,774.11	30,839.38	118,324	
Total Company Expense							
Net Profit (Loss) after Operating and Personnel expenses							
		5,163.52	6,803.67	7,034.29	3,398.07	22,400	

Distribution List

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CERTIFICATE OF SERVICE

This is to certify that on this date, a true and correct copy of the within and foregoing *Motion for Extension of Authority to Use Cash Collateral* was served by First Class Mail on the following parties:

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and by the Court's CM/ECF system on all counsel of record registered in this case through CM/ECF.

This 3rd day of March, 2021.

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